

STATE OF TENNESSEE

OFFICE OF THE ATTORNEY GENERAL

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OFFICE OF THE
EXECUTIVE SECRETARY

April 29, 1999

Walter E. Dierks
Counsel for Minimum Rate Pricing
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036

Re: Amended Plan of Consumer Advocate, Docket No. 98-00018

Dear Mr. Dierks:

Attached is the Consumer Advocate Division's Amended Plan which was indicated in the April 29, 1999 filing. The amendments were being discussed and had partially been integrated prior to the 4:30 filing time but had not yet been fully incorporated.

Since we have now received your filing I note one factually misleading, if not intentionally erroneous statement, and also your violation of negotiation confidentiality. You use that misleading and intentionally erroneous statement to make false arguments of an intent by the TRA staff "...to regulate interstate long distance service." I believe the violation of negotiation confidentiality to gain a strategic advantage releases me from the normal bounds of such confidentiality in order to correct the misleading or intentional error for the record.


On page four of MRP's proposal the company states that "... Mr. Williams has indicated that the TRA staff has been attempting to locate potential providers of long distance service." I regard this as an intentional misstatement. As you are aware our discussions revolved around MRP's offer to provide Tennessee consumers intrastate service toll-free and its subsequent withdrawal of the offer. MRP was making the offer because it allegedly would have difficulty separating intrastate long distance from interstate long distance. When MRP withdrew its offer and sought a July 30 time period for switching, I stated that the time period was unacceptable and in fact that we were exploring intrastate service providers. At no time was there any statement by me to Mr. Dierks or Ms. Colley, that either the Consumer Advocate Division or the TRA staff was attempting to explore the possibility of providing anything but intrastate service.

MRP's attempt to intentionally misrepresent the TRA or TRA staff's intent in these proceedings is unconscionable. The Consumer Advocate Division's Amended Plan which was in process before the end of the filing period and to which the TRA staff has no objections is most

representative of the staff's position. At no time did the TRA staff express an intent to terminate MRP's interstate business. Moreover, I and the representative of the facilities based provider I spoke with can verify that CAD's focus during the exploration process was intrastate only.

I believe MRP should withdraw its allegations or recast them as pure belief and not as actual assertions of fact.

I respectfully request that this letter be placed into the official record.

Sincerely,

L. Vincent Williams

cc:Parties of record

Consumer Advocate Division's Amended Proposal¹

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Implementation Plan Subsequent to the Decertification of Minimum Rate Pricing

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This is the first time the TRA, or its predecessor the PSC, has decertified a intrastate long distance reseller for cause. We are, therefore, breaking new ground on this issue. The Georgia Public Service Commission has experience in this area and has adopted an administrative rule outlining the procedures for handling similar situations. Exhibit A is a copy of the Georgia Rule for your review.

Before putting together a Plan, the Consumer Services Division and the Consumer Advocate Division of the Office of the Attorney General outlined principles that we thought were vital in dealing with the decertification of MRP. The guiding principles of this Plan are to: (1) Ensure that all existing alleged intrastate customers are properly notified of MRP's status in Tennessee as early as possible; (2) Provide a reasonable amount of transitional time for intrastate customers routed through MRP and its facility-based providers to select another intrastate reseller or carrier; (3) Attempt to limit the effect of the revocation of intrastate service in so far as possible while preserving the provisioning of interstate services; and, (4) Move as quickly as possible to prohibit and prevent MRP from continuing to benefit from its unlawful acts by providing intrastate toll service in Tennessee.

A. Customer notification of need to change long distance carriers

Goal: Ensure that all MRP customers are properly notified of the action of the TRA and their need to select another carrier.

Customer notification is vital in order to ensure that Minimum Rate Pricing's customers are made aware of the action taken by the TRA and the necessity of selecting another long distance carrier by a specific date. This notification can be approached by any and/or all of the following five (5) methods:

- Press Release to all media
- Direct mail from TRA to all MRP customers
- Announcement on the TRA's Web Page
- Incumbent local exchange carrier bill inserts
- Intercept recording, to be explained below.

¹ The Consumer Services Division has no objections to the amended proposal.

The company in the best position to provide customer information of MRP's customers in Tennessee is MRP. Without MRP's assistance, the second best source for the information is from MRP's underlying carrier, MCI WorldCom. MCI WorldCom is willing to supply the information needed for notices, if the TRA issues a subpoena directing it to do so.

B. Transitional Schedule

Goal: Provide a reasonable amount of transitional time for MRP customers to select another intrastate carrier

Allow MRP customers ten (10) days from the direct mailing date to select another intrastate long distance provider. Customers that fail to select another carrier will be without an intrastate long distance provider.

Goal: Attempt to prevent any MRP customer from being left without a long distance carrier

Fifteen (15) days after the notice, MRP customers attempting to access its network could receive an intercept, if financially feasible², informing them that MRP is no longer authorized to provide intrastate toll service in Tennessee, and that they need to contact another carrier to subscribe to intrastate long distance service. This message should also instruct the call that long distance calls can be completed by dialing a carrier's access code. The actual text of the message should be approved by the TRA Staff.

C. Termination of MRP's service in Tennessee

Goal: Move as quickly as possible to prevent and prohibit MRP from benefiting from its unlawful acts by continuing to provide intrastate toll service in Tennessee

Since MRP has been found guilty of violating state law and the TRA's rules and regulations, it is imperative that the window of time that MRP is allowed to provide transitional service be limited. In fact, as late as April 27, 1999, the TRA received another consumer complaint (Exhibit B) against MRP. In order to move expeditiously,

² BellSouth was unable to determine the cost of providing an intercept service to MRP customers at this time. The unreliable information on the actual number of MRP customers adds to the difficulty in estimating a cost for intercept service. BellSouth also stated that implementing such intercepts statewide could require considerable time. These issues will have to be worked out. The TRA may wish to empower the Executive Secretary to make the decision whether to use intercepts and other decisions relative to the implementation of this Plan.

we recommend that the TRA Executive Secretary take all necessary steps to implement this Plan as soon as possible, including but not limited to subcontracting out the work and/or the hiring of temporary employees to do the work in house.

Ten (10) days after consumer notification, the TRA should notice all telecommunications service providers operating in Tennessee to cease billing and collecting, pursuant to TRA Rule 1220-4-2-.57(2 and 3), for MRP. Several providers have requested an Order be issued by the TRA. The Consumer Advocate Division believes an Order is inappropriate for the following reasons.

The Consumer Advocate Division believes that an Order of the TRA directing nonparties to cease intrastate billing and collecting may raise due process concerns and may imply that the April 27, 1999 revocation becomes effective at a later date. Therefore the CAD advises that pursuant to Tenn. Code Ann. §§ 4-5-319 (e) and (g) (2) nonparties are required to comply with interim and final orders. Those nonparty telecommunications companies and companies acting on behalf of telecommunications companies with actual knowledge of the revocation must comply with TRA rule 1220-4-2-.57 (2) and (3) and Tenn. Code Ann. § 65-4-125. These subsections at a minimum require cessation of billing and collection for intrastate services. The CAD recognizes that some non parties may need to seek forbearance regarding the provision of access to MRP because of technical difficulties regarding separation of intrastate as opposed to interstate access and that forbearance should reasonably be granted so long as there is no intrastate billing and collection.